

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 76
FINAL READING

Introduced by Chambers, 11; Crosby, 29

Read first time January 7, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal homicide; to amend sections
2 29-2521.02, 29-2528, and 81-1425, Reissue Revised
3 Statutes of Nebraska; to provide for judicial notice of
4 certain reports; to provide a moratorium on the execution
5 of the death sentence; to provide duties for the
6 executive director of the Nebraska Commission on Law
7 Enforcement and Criminal Justice; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2521.02, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 29-2521.02. (1) The Supreme Court shall within a
4 reasonable time after July 22, 1978, review and analyze all cases
5 involving criminal homicide committed on or after April 20, 1973.
6 Such review and analysis shall examine ~~(1)~~ (a) the facts including
7 mitigating and aggravating circumstances, ~~(2)~~ (b) the charges
8 filed, ~~(3)~~ (c) the crime for which defendant was convicted, and ~~(4)~~
9 (d) the sentence imposed. Such review shall be updated as new
10 criminal homicide cases occur.

11 (2) Following the transmittal of a report of the Nebraska
12 Commission on Law Enforcement and Criminal Justice pursuant to
13 subdivision (7) of section 81-1425 and subsequent reports updating
14 such report, the Supreme Court may take judicial notice of such
15 reports in undertaking the determinations required by sections
16 29-2521.01 to 29-2521.04.

17 Sec. 2. Section 29-2528, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 29-2528. ~~In~~ (1) Except as provided in subsection (2) of
20 this section, in all cases when the death penalty has been imposed
21 by the district court, the Supreme Court shall, after consideration
22 of the appeal, order the prisoner to be discharged, order a new
23 trial to be had, or appoint a day certain for the execution of the
24 sentence.

25 (2)(a) The Supreme Court shall not appoint a day certain
26 for the execution of a death sentence that falls during the period
27 beginning on the effective date of this act and ending on September
28 1, 2001.

1 (b) During the moratorium period specified in subdivision
2 (a) of this subsection, the special procedures in cases of homicide
3 provided in sections 29-2519 to 29-2546 and any other proceedings
4 related to capital cases, including motions for postconviction
5 relief, shall continue to be operative and shall proceed as if no
6 such moratorium were in place, except that no day certain for
7 execution shall be appointed that falls during the moratorium
8 period.

9 (c) During the moratorium period specified in subdivision
10 (a) of this subsection, the Supreme Court may appoint a day certain
11 for the execution of a death sentence that does not fall during the
12 moratorium period.

13 Sec. 3. Section 81-1425, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-1425. The executive director of the commission shall:

16 (1) Supervise and be responsible for the administration
17 of the policies established by the commission;

18 (2) Establish a Jail Standards subdivision within the
19 commission and establish, consolidate, or abolish any other
20 administrative subdivision within the commission and appoint and
21 remove for cause the heads thereof, and delegate appropriate powers
22 and duties to them;

23 (3) Establish and administer projects and programs for
24 the operation of the commission;

25 (4) Appoint and remove employees of the commission and
26 delegate appropriate powers and duties to them;

27 (5) Make rules and regulations for the management and the
28 administration of policies of the commission and the conduct of

1 employees under his or her jurisdiction;

2 (6) Collect, develop, and maintain statistical
3 information, records, and reports as the commission may determine
4 relevant to its functions;

5 (7) Prior to January 1, 2001, review and analyze all
6 cases involving criminal homicide committed on or after April 20,
7 1973. The review and analysis shall examine (a) the facts,
8 including mitigating and aggravating circumstances, (b) to the
9 extent such can be ascertained, the race, gender, religious
10 preference, and economic status of the defendant and of the victim,
11 (c) the charges filed, (d) the result of the judicial proceeding in
12 each case, and (e) the sentence imposed. Upon the completion of
13 such review, the report of such shall be transmitted to the
14 Governor, the Clerk of the Legislature, and the Chief Justice of
15 the Supreme Court. The review and analysis shall be updated as new
16 cases of criminal homicide occur. The commission shall report on
17 such updating annually to the parties named in this subdivision;

18 (8) Transmit monthly to the commission a report of the
19 operations of the commission for the preceding calendar month;

20 ~~(8)~~ (9) Execute and carry out the provisions of all
21 contracts, leases, and agreements authorized by the commission with
22 agencies of federal, state, or local government, corporations, or
23 persons;

24 ~~(9)~~ (10) Perform such additional duties as may be
25 assigned to him or her by the commission, the chairperson of the
26 commission, or by law; and

27 ~~(10)~~ (11) Exercise all powers and perform all duties
28 necessary and proper in carrying out his or her responsibilities.

LB 76

LB 76

1 Sec. 4. Original sections 29-2521.02, 29-2528, and
2 81-1425, Reissue Revised Statutes of Nebraska, are repealed.